IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

And
THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION Nos.

3179, 4871, 5486, 5662, 5756 & 7151 of 2005

AND

WRIT APPEAL Nos.425, 426, 427 & 630 of 2005

WRIT PETITION NO : 3179 of 2005

Between:

Self-Financing Rural Engineering College, Managements Association, Regn.No. 114/2002, Reg. Off. 2-1-124/A/2, Nallakunta, Hyderabad-44,
rep. by its Joint Secretary. ..... PETITIONERS

AND

1 The All India Council for Technical Education, Indira Gandhi Sports

Complex, I.P. Estate, New Delhi, rep. by its Member Secretary.
2 The State of Andhra Pradesh, rep. by its Principal Secretary,
Higher Education Department, Secretariat Buildings, Hyderabad.
3 The Commissioner of Technical Education, Andhra Pradesh, Hyderabad.
4 Annamacharya Educational Trust, 2-2-25/P/T/7/1, D.D. Colony, Bagh

Amberpet, Hyderabad - 500 013, rep. by its Secretary.
5 Avanthi Educational society, H.No.8--2-293/82/F-II/A, Plot No.12,
Film Nagar, Jubilee Hills, Hyderabad - 500 034, rep. by its Secretary.
6 Brilliant Bells Educational Society, Pent House, 601, Girisikara

Residency, Hyderabad - 500 004, rep. by its Secretary.
7 Chandramma Educational Society, Sy.No. 59, Jayanagar Colony,

Bowenpally, Secunderabad - 500 011, rep. by its Secretary.
8 Fareeha Educagtional Society, 8-2-293/82/A/1297, Jubilee Hills, Hyderabad, rep. by its Secretary.
9 KMR Educational Society, Plot No. 48, Sowjanya Colony, Bowenpally, Secunderabad - 500 011, rep. by its Secretary.
10 M.G.R. Educational Society, 173, Plassey Lane, Malla Reddy Gardens, Bowenpally, Secunderabad - 500 011, rep. by its Secretary.
11 Malla Reddy Educational Society, Bowenpally, Secunderabad - 500 011,

rep. by its Secretary.

12 Moghal Educational Society, 8-5-2/189, Moghal Campus, Kahidan Road, Near Chandrannadata X Road, Bandlaguda, Hyderabad - 500 005, rep. by its Secretary.
13 Murthy Educational Society, H.No. 8-3-1055, Plot No. 139, Srinigar

Colony, Hyderabad - 500 073, rep. by its Secretary.
14 Nova Educational Society, Plot No.12, H.No. 16-1111-20/1, Krishna

Tulasi Nagar, Moosarambagh, Hyderabad - 500 036, rep. by its Secretary.
15 S.S. Educational Society, 402, Sri Krishna Sai Apartments, Yousufguda Check Post,, Hyderabad , rep. by its Secretary.
16 Shree Vigneswara Foundations, Plot No. 07, Surya Avenue,

Tirumalgherry, Secunderabad - 15, rep. by its Secretary.
17 St. Daniel Christian Minorioty Educational Society, Plot No. C-102,

Ravindra Nagar Colony, Hubsiguda, Hyderabad - 500 007, rep. by its

Secretary.
18 T.K.R. Educational Society, H.No. 16-2-751/A/31/C, Tirumala ills, Asmangadh, Malakpet, Hyderabad - 500 036, rep. by its Secretary.
19 Sarada Educational Society, D.No. 11-01-24, Sabitha Nursing Home, Mayuri Centre, Khammam - 507 001, rep. by its Secretary.
20 Vasanta's Educational Society, Flat No. 401, H.No. 2-2-2, Vasavi Heights

NCC Circle, Vidyanagar, O.U. Road, Hyderabad - 500 013, rep. by its

Secretary. .....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the action of the 1st Respondent in issuing Letter of Intent for establishment of Engineering Colleges to the Respondents 4 to 20 for the academic year 2005-2006 as communicated by the announcement of the 1st Respondent on 10-2-2005 in the internet as arbitrary, illegal, being in violation of AICTE Act and Regulations by way of issue of a writ order or direction one more particularly in the nature of writ of Mandamus and consequently direct the 1st Respondent to forbear from approving any new engineering institutions in the State of A.P. in the light of the Policy of the 2nd Respondent as communicated vide Memo No. 10680/EC.2/2004 dated 14-12-2004 and pass such other order or orders as are deemed fit and proper in the facts and circumstances of the case.

Counsel for the Petitioner : MR.S.SRI RAM

Counsel for the Respondent No.1 : KUM.C.SINDHU KUMARI

Counsel for the Respondents No.2 & 3: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.5 : MR.N.NAVEEN KUMAR

Counsel for the Respondents No.7, 9,10,15 & 18 : MR.S.NIRANJAN REDDY

Counsel for the Respondent No.11 : MR.SRIHARSHA REDDY

Counsel for the Respondent No.14 : MR.B.ADINARAYANA RAO

Counsel for the Respondent No.17: MR.K.RAMESH BABU

WRIT PETITION NO : 4871 of 2005

Between:

Dr. V. Tirupathaiah, S/o. V. Venkata Ramaiah,R/o. Mareedpally, Hyderabad.

..... PETITIONER

AND

1. The All India Council for Technical Education, Indira Gandhi Sports

Complex, I.P. Estate, New Delhi, rep. by its Member Secretary.
2. Government of A.P., rep. by its Principal Secretary, Higher Education

Department, Secretariat, Buildings, Hyderabad.
3 The Commissioner of Technical Education, A.P., BRKR Bhavan,

Hyderabad.
4 The A.P. State Council for Higher Education, rep. by its Secretary,

Hyderabad.
5 Avanthi Educational Society, H.No.8-2-293/82/F-II/A,
Plot No.12, Film Nagar, Jubilee Hills, Hyderabad, rep. by its Secretary.
6 Chandramma Educational Society, Sy.No.59, Jayanagar Colony,

Bowenpally, Secunderabad, rep. by its Secretary.
7 Murthy Educational Society, H.No.8-3-1055, Plot No.139, Srinagar

Colony, Hyderabad, rep. by its Secretary.
8 Shree Vigneswara Foundations, Plot No.7, Surya Avenue, Tirumalgherry,

Secunderabad-15, rep. by its Secretary.
9 T.K.R. Educational Society, H.No.16-2-751/A/31/C, Tirumala Hills,

Asmangadh, Malakpet, Hyderabad, rep. by its Secretary.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the first respondent and 2nd respondent in permitting new technical institutions and other institutions to come up even without comprehensively supervising the existing institutions as being illegal, arbitrary, unconstitutional and set aside the action of the first respondent in permitting the respondents 4 to 9 herein and any other institutions and pass such further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.C.V.R.RUDRA PRASAD

Counsel for the Respondent No.1: KUM.C.SINDHU KUMARI

Counsel for the Respondents No.2 to 4: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.5 : MR.N.NAVEEN KUMAR

Counsel for the Respondent No.6 : MR.S.NIRANJAN REDDY

WRIT PETITION NO : 5486 of 2005

Between:

Balaji Educational Society, Municipal Village, Jakranpally Mandal, Nizamabad District, rep.by its President, K.Narender Reddy.

..... PETITIONER

AND

1 State of Andhra Pradesh rep.by its Principal Secretary, Higher Education

Department at Secretaraiat, Hyderabad.
2 The All India Council for Technical Education, Indira Gandhi sports

Complex, I.P.Estate, New Delhi.
3 The Commissioner of Technical Education, A.P.Hyderabad.
4 Annamacharya Eductional Trust, 2-2-25/P/T/7/1, D.D.Colony, Bagh

Amberpet, Hyderabad, rep.by its Secretary.
5 Avaanti Educational Society, H.No.8-2-293/82/F-II/A, plot No.12, Film

Nagar, Jubilee Hills, Hyderbad rep.by its Secretary.
6 Brilliant Bells Educational society Pent House, 601, Girisikhara

Residency Hyderabad-4, rep.by its Secretary.
7 Chandramma Educational Society, sy.No.59, Jayanagar Colony,

Bowenpally Secunderabad-11, rep.by its Secretary.
8 Fareeha Educational society, 8-2-293/82/A/1297, Jubilee Hills,

Hyderabad rep.by its Secretary.
9 KMR Educational society, plot No.48, Sowjanya colony, Bowenpally

Secunderabad, rep.by its Secretary.
10 MGR Educational society, 173, plassey Lane, Malla Reddy Gardens,

Bowenpally, Secunderabad, rep..by it Secretary.
11 Malla Reddy Educational Society, Bowenpally, Secunderabad
rep by its. Secretary.
12 Moghal Educational Society, 8-5-2/18, Moghal Campus, Kahidan Road,
Near Chandrannadata X Road, Bandlaguda, Hyderabad, rep by its

Secretary.
13 Murthy Educational Society, H.No.8-3-1055, Plot No.139,
Srinagar Colony, Hyderabad, rep. by its Secretary.
14 Nova Educational Society, Plot No.12 Krishan Tulasi Nagar,
Mosarambagh, Hyderabad.
15 S.S.Educational Society, 402, Sri Krishan Sai apts.,
Yousufguda Check Post, Hyderabad, rep. by its Secretary.
16 Shree Vigneswara Foundations Plot No.7, Surya Avenue,
Tirumulgherry, Secunderabad, rep. by its Secretary.
17 St. Daniel Christian Minority Educational Society, Plot No.C-102

Ravindranagar Colony, Habsiguda, Hyderabad-7, rep. by its Secretary.
18 T.K.R Educational Society, H.No.16-2-751/A/31/C, Tirumala Hills,

Asmanghdh, Malakpeta, Hyderabad.

19 Sarada Educational Society, D.No.11-1-24, Sabitha Nursing Home

Mayuri Centre, Khammam, rep. by its Secretary.
20 Vasanta's Educational Society, Flot No.401, H.No.2-2-2, Vasavi Heights,
NCC Circle, Vidyanagar, O.U. Road, Hyderabad, rep. by its Secretary.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or writ, Order or Direction: 1) Declaring the action of the second Respondent in issuing letter of intent for establishment of engineering colleges to the Respondents 4 to 20 for the academic year 2005-2006 as communicated by the announcement of the second respondent on 10.02.2005 in the internet as arbitrary, illegal, being violative of AICTE Act and Regulations and consequently direct the second respondent to forbear from approving any new engineering institutions in the state of Andhra Pradesh in the light of policy of the first respondent as communicated vide Memo No.10680/EC.2.2004 dt 14.12.2004. ii) Direct the respondents to give minimum admission guarantee to each Engineering College by allotting the eligible candidates equally amongst all the Colleges, and in the event of failure to do so, not to insist the Engineering Colleges for maintenance of high standards of infrastructure. iii) Direct the official respondents to take steps to frame rules for

disallowing the sliding down process of students from rural engineering colleges to other engineering colleges in urban areas. Award costs and pass such other or further orders.

Counsel for the Petitioner : MR.N.SRIDHAR REDDY

Counsel for the Respondents No.1 & 3 : GP FOR HIGHER EDUCATION

Counsel for the Respondent No.2 : Ms.C.SINDHU KUMARI

Counsel for the Respondent No.: MR.S.SATYANARAYANA PRASAD

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WRIT PETITION NO : 5662 of 2005

Between:

Ya Fatima Educational Society, 6-3-1099/1/6/A, Fatima Complex, Somajiguda, Raj Bhavan Road, Hyderabad, rep. by its Chairman/Correspondent Dr. S. Askari Hasan.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Department of Higher Education, rep. by its Principal Secretary, Secretariat, Saifabad, Hyderabad.
2 The Commissioner & Director of Technical Education, Government of

Andhra Pradesh, Hyderabad.
3 The All India Council for Technical Education, Indira Gandhi Sport

Complex, I.P. Estate, New Delhi , rep. by its Secretary.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order , direction more particularly one in the nature of writ of "Mandamus " declaring the action of the 1st respondent in issuing impugned Memo No. 10680/EC.2/2004 dated 14-12-2004 notifying its policy decision not to permit new Engineering Colleges in the State of Andhra Pradesh for the academic year 2005-2006 as being illegal, irrational, arbitrary and unconstitutional and violative of provisions of AP Education Act, 1982 and AICTE Act, 1987 and set aside the same and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.PATLOLLA VENKAT REDDY

Counsel for the Respondents No.1 & 2: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.3 : Ms.C.SINDHU KUMARI

WRIT PETITION NO : 5756 of 2005

Between:

1 Lord Grade Educational Society, 1-72/1, Mekala Complex,
Prabhat Nagar, Chaitanyanapuri Hyderabad rep by its Secretary cum

Correspondent Sri K. Shiva Reddy
2 Netaji Institute of Engineering & Technology, near Ramoji Film City,

Toopranpet Mandal, Choutuppal Mandal, Nalgonda District, rep by its

Secretary & Correspondent Sri K. Shiva Reddy

..... PETITIONERS

AND

1 The All India Council for Technical Education Indira Gandhi Sports

Complex, I.P. Estate, New Delhi, rep by its Member Secretary
2 The State of Andhra Pradesh Rep by its Principal Secretary Higher

Education Department, Secretariat Buildings, Hyderabad.

3 The Commissioner of Technical Education, A.P. Hyderabad.
4 Annamacharya Eduacational Trust, 2-2-25/P/T/7/1 D.D. Colony, Bagh

Amberpet, Hyderabad - 500 013, rep by its Secretary
5 Avanthi Educational Society, H.No. 8-2-293/82/F-II/A, Plot No. 12 Film

Nagar, Jubilee Hills, Hyderabad - 500 034 rep by its Secretary
6 Brilliant Bells Educational Society, Pent House, 601, Girisikara

Residency, Hyderabad - 500 004 rep by its Secretary
7 Chandramma Educational Society, Sy.No. 59, Jaya Nagar Colony,

Bowenpally, Secunderabad - 500 011 rep by its Secretary
8 Fareeha Educational Society, 8-2-293/82/A/1297, Jubilee Hills,
Hyderabad rep by its Secretary
9 KMR Educational Society, Plot No. 48, Sowjanya Colony,
Bowenpally, Secunderabad - 500 011.
10 M.G.R. Eduational Society, 173, Plassey Lane, Malla Reddy Gardents,
Bowenpally, Secunderabad - 500 011. Rep by its Secretary
11 Malla Reddy Educational Society, Bowenpally, Secunderabad - 500 011

rep by its Secretary
12 Moghal Educational Society, 8-5-2/18, Moghal Campus, Kahidan Road,
Near Chandrannadata X Road, Bandlaguda, Hyderabad - 500 073
rep by its Secretary
13 Murthy Educational Society, H.No. 8-3-1055, Plot No. 139, Srinagar

Colony, Hyderabad - 500 073, rep by its Secretary
14 Nova Educational Society, Plot No. 12, H.No. 16-11-22/1, Krishna Tulasi

Nagar, Moosarambagh, Hyderabad - 500 036 Rep by its Secretary
15 S.S. Educational Society, 402, Sri Krishna Sai Apartments,
Yousufguda Check Post, Hyderabad Rep by its Secretary
16 Shree Vigneswara Foundations, Plot No. 07, Surya Avenue,

Tirumalgherry, Secunderabad - 15 Rep by its Secretary

17 St. Daniel Christian Minority Eduacational Society Plot No. C-102,

Ravindra Nagar Colony, Hubsiguda, Hyderabad - 500 007 rep by its

Secretary
18 T.K.R. Educatioal Society, H.No. 16-2-751/A/31/C, Tirumala Hills,
Asmangagh, Malakpet, Hyderabad - 500 036 rep by its Secretary
19 Sarada Educational Society, D.No. 11-01-24, Khammam - 507 001 Rep

by its Secretary
20 Vasanta's Educational Society, Flat No. 401, H.No. 2-2-2, Vasavi Heights,
NCC Circle, Vidya Nagar, O.U. Road, Hyderabad - 500 013, Rep by its

Secretary

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the action of the 1st respondent in issuing Letter of Intent for establishment of engineering Colleges to the respondents 4 to 20 for the academic year 2005-2006 as communicated by the announcement of the 1st respondent on 10-2-2005 in the internet as arbitrary, illegal, being in violation of AICTE Act and Regulations by way of issue of a writ order or direction, one more particularly in the nature of writ of Mandamus and consequently direct the 1st respondent to forbear from approving any new engineering institutions in the State of A.P. in the light of the Policy of the 2nd respondent as Communicated vide Memo No. 10680/EC.2/2004 dt. 14-12-2004 and pass such other order or orders as are deemed fit and proper in the facts and circumstances of the case.

Counsel for the Petitioner : MR.S.SRI RAM

Counsel for the Respondent No.1 : Ms.C.SINDHU KUMARI

Counsel for the Respondents No.2 & 3: GP FOR HIGHER EDUCATION

WRIT PETITION NO : 7151 of 2005

Between:

1 Anwar-Ul-Uloom Educational Association, New Mallepally,

Hyderabad, Rep. by its Secretary, Mahaboob Alam Khan.

2 Anwar-Ul-Uloom College of Pharmacy, Malakpet, Hyderabad,
Rep. by its Secretary, Mahaboob Alam Khan.

3 Mahaboob Alam Khan S/o. Nawab Shah Alam Khan,
R/o. Barkatpura, Hyderabad.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, Department of Higher Education,
Rep. by its Principal Secretary, Secretariat, Saifabad, Hyderabad.
2 The Commissioner & Director of Technical Education, Government of

Andhra Pradesh, Hyderabad.
3 All India Council for Technical Education, Indira Gandhi Sport Complex,
I.P. Estate, New Delhi, Rep. by its Secretary.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order, direction more particularly one in the nature of Writ of "Mandamus" declaring the action of the 1st Respondent in issuing impugned Memo No. 10680/EC.2/2004 dt. 14-12-2004 notifying its policy decision not to permit new Engineering Colleges in the State of Andhra Pradesh for the academic year 2005-2006 as being illegal, irrational, arbitrary and unconstitutional and violative of provisions of A P Education Act, 1982 and AICTE Act, 1987 and set aside the same and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners : MR.S.NIRANJAN REDDY

Counsel for the Respondents No.1 & 2: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.3 : Ms.C.SINDHU KUMARI

WRIT APPEAL NO : 425 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22/02/2005 in WP NO : 3179 OF 2005 on the file of the High Court.)

Between:

1 Chandramma Educational Society, Sy.No. 59, Jaya Nagar Colony,

Bowenpally, Secunderabad - 500 011, Rep. by its Secretary, Mr. Ch. Malla

Reddy, S/o. Malla Reddy, Aged about 53 Years, R/o. Bowenpally,

Hyderabad.

2 K M R Educational Society, Plot No. 48, Sowjanya Colony, Bownapally, Secunderabad - 500 011, Rep. by its Secretary, Mr. Raj Sekhar Reddy, S/o

M. Laxman Reddy, Aged about 35

3 M G R Educational Society, 173, Plassey Lane, Mallareddy Gardens,

Bownpally, Secunderabad - 500 011, Rep. by its Secretary, Mr. C. Gopal

Reddy, S/o. Malla Reddy, Aged about 35

4 SS Educational Society, 402, Sri Krishna Sai Apartments, Yousufguda

Check Post, Hyderabad, Rep. by its Secretary, Mr. A. Maheswar Reddy,

S/o. Padmanabha Reddy, Aged about 36 years.

..... APPELLANTS

AND

1 Self-Financing Rural Engineering College Managements Association

Regn No. 114/2002 Reg. Office 2-1-124/A/2, Nallakunta, Hyderabad.

2 The All India Council for Technical Education, Indira Gandhi Sports

Complex, I.P. Estate, New Delhi. Rep. by its Member Secretary.

3 The State ofAndhra Pradesh, Rep. by its Principal Secretary, Higher

Education Department, Secretariat Buildings, Hyderabad.

4 The Commissioner of Technical Education, Andhra Pradesh, Hyderabad.

5 Annamacharya Educational Trust, 2-2-25/P/T/7/1, D.D. Colony, Bagh

Amberpet, Hyderabad.

6 Avanth Educational Society, GH.No. 8-2-293/82/F-II/A, Plot No. 12, Film Nagar, Jubilee Hills, Hyderabad - 500 034. Rep. by its Secretary.

7 Brilliant Bells Educational Society, Pent House, 601, Girisikara

Residency, Hyderabad-500 004, Rep. by its Secretary

8 Fareeha Educational Society, 8-2-293/82A/1297, Jubilee Hills, Hyderabad Rep. by its Secretary.

9 Malla Reddy Educational Society, Bownpally, Secunderabad - 500 011. Rep. by its Secretary.

10 Moghal Educational Society, 8-5-2/18, MOghal Complex, Kahidan Road, Near Chandrannadat X Road, Bandlaguda, Hyderabad 500 005 Rep. by its

Secretary.

11 Murthy Educational Society, H.No. 8-3-1055, Plot No. 139, Srinagar

Colony, Hyderabad 500 005 Rep. by its Secretary.
12 Nova Educational Society, Plot No. 12, H.No. 16-11-22/1, Krishna Tulisi

Nagar, Musarambagh, 500 036.
13 Sri Vigneshwara Foundation, Plot No.7 Surya Avenue, Tirumalgherry, Secunderabad - 15, Rep. by its Secretary.
14 St. Daniel Minority Educational Society, Plot No. C-102, Ravindrangar

Colony, Hubsiguda, Hyderabad - 500 007. Rep. by its Secretary.
15 Sarada Educational Society, D.No. 11-01-24, Sabitha Nursing Home, Mayuri Centre, Khammam - 507 001, Rep. by its Secretary.
16 Vasantha's Educational Society, Flat No. 401, H.No. 2-2-2, Vasavi

Heights, NCC Circle, Vidyanagar, O.U. Road, Hyderabad - 500 013. Rep.

by its Secretary.
17 T.K.R. Educational Society, H.No. 16-2-751/A/31/C, Tirumala Hills, Asmanghad, Malakpet, Hyderabad.

.....RESPONDENTS

Counsel for the Appellants : MR.S.NIRANJAN REDDY

Counsel for the Respondent No.1 : MR.S.SRI RAM

Counsel for the Respondent No.2 : Ms.C.SINDHU KUMARI

Counsel for the Respondents No.3 & 4: GP FOR HIGHER EDUCATION

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WRIT APPEAL NO : 426 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22/02/2005 in WP NO : 3179 OF 2005 on the file of the High Court.)

Between:

Malla Reddy Educational Society, Bownpally secunderabad-500 001 rep. by its Secretary Mr.Ch.Mahender Reddy, S/o.Ch.Malla Reddy.

..... APPELLANT

AND

1 Self-Financing Rural Engineering College Managements Association

Regn No.114/2002 Reg.Off.2.1.124/A/2, Nallakunta Hyderabad.
2 The All India Council for Technical Education Indira Gandhi Sports

Complex, I.P.Estate New Delhi rep. by its Member Secretary.
3 The State of andhra Pradesh rep. by its Principal Secretary Higher

Education Department, Secretariat Buildings,Hyderabad
4 The Commissioner of Technical Education, A.P.Hyderabad.
5 Annamacharya Educational Trust 2-2-25/P/7/1, D.D. Colony, Bagh

Amberpet, Hyderabad.
6 Avanthi Educational Society Rep. by its Secretary Mr.M.Srinivasa

Rao,S/o.M.Venkata Narayana, H.No.8-2-293/82/F-IIA, Plot No.12 Film

Nagar, Jubilee Hills, Hyderabad.
7 Brilliant Bells Educational Society Pent House, 601, Girisikara Residency Hyderabad-500 004 rep. by its Secretary.
8 Chandramma Educational Society Sy.No.59, Jaya Nagar Colony,

Bownpally, Secunderazbad-500 011 rep. by its Secretary.

9 Ferreha Educational Society 8-2-293/82A/1297 Jubilee Hills, Hyderabad

rep. by its Secretary.
10 K.M.R.Educational Society, Plot No.48 Sowjanya Colony, Bownapally,

Secunderabad -500 011, Rep. by its Secretary.
11 M.G.R.Educational Society, 173, Pleasey Lane Malla Reddy Gardens,

Bownpally, Secunderabad, Rep. by its Secretary.
12 Moghal Educational Society, 8-5-2/18, Moghal complex, Kahidan Road,

Near Chandrannadata X Road, Bandlaguda, Hyderabad 500 005 rep. by its

Secretary.
13 Murthy Educational Society, H.No.8-3-1055, Plot No.139 Srinagar

Colony, Hyderabad-500 073 rep. by its Secy.,
14 Nova Educational Society, Plot No.12, H.No.16-11-22/1 Krishna Tulsi

Nagar, Musarambagh, 5000 36.
15 S.S.Educational Society,402 Sri Krishna Sai Apartments Yousuf guda

Check Post, Hyderabad., rep by its Secy.,

16 Sri Vigneshwara Foundation, Plot No.7, Surya Avenue Tirumalgherry,

Secunderabad-15 . rep. by its Secretary.
17 St.Daniel Christian Minority Educational Society Plot No.C-102

Ravindranagar Colony, Husbiguda, Hyderabad, rep. by its Secretary.
18 T.K.R.Educational Society H.No.16-2-751/A/31/C, Tirumala Hil

Asmangadh, Malkpet, Hyderabad-500 0036 rep. by its Secy.
19 Sarada Educational Society D.No.11-1-24 Sabitha Nursing Home, Mayuri

Centre, Khammam. rep by its Secretary.
20 Vasantha's Educational Society, Flat No.401, H.No.2-2 -2, Vasavi Heights,

NCC Circle Vidyanagar, O.U.Road, Hyderabad -500 013,
Rep. by its Secretary.

.....RESPONDENTS

Counsel for the Appellant:MR.P.SRI HARSHA REDDY

Counsel for the Respondent No.1 : MR.S.SRI RAM

Counsel for the Respondent No.2 : Ms.C.SINDHU KUMARI

Counsel for the Respondents No.3 & 4: GP FOR HIGHER EDUCATION

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WRIT APPEAL NO : 427 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22/02/2005 in WP NO : 3179 OF 2005 on the file of the High Court.)

Between:

Avanthi Educational Society rep by Secrtary Mr. M. Srinivasa Rao S/o M. Venkata

Narayana, H. No. 8-2-293/82/F-IIA, Plot No. 12 Film Nagar, Jubilee Hills, Hyderabad

..... APPELLANT

AND

1 Self- Financing Rural Engineering College Managements Association

Regn No. 114/2002, Reg. Off 2-1-124/A/2, Nallakunta Hyderabad rep by

Joint Secretary
2 The All India Council for Technical Education Indira Gandhi Sports

Complex, I.P. Estate New Delhi rep by Member Secretary.
3 The State of Andhra Pradesh rep by Principal Secrtary Higher Eduction

Department, Secrtariat Buildings, Hyderabad
4 The Commissioner of Technical Eduction A.P., Hyderabad
5 Annamacharya Educational Trust 2-2-25/P/T/7/1, D.D. Colony, Bagh

Amberpet Hyderabad.
6 Brilliant Bells Educational Society Pent House, 601, Girisikara

Residency, Hyderabad rep by Secretary.
7 Chandramma Educational Society Sy. No. 59, Jaya Nagar Colony,

Bownpally, Secunderabad rep by Secretary.
8 Fareesh Educational Society, 8-2-293/82A/1297 Jubilee Hills, Hyderabad

rep by its Secretary.
9 K.M. R. Eductional Society, Plot No. 48 Sowjanya Colony, Bownapally, Secunderabad Rep by Secretary.
10 M.G. Educational Society, 173, Plassey Lane Malla Reddy Gardens,

Bownpally, Secunderabad rep by Secretary.
11 Malla Reddy Educational Society, Bownapally, Secunderabad rep by

Secretary.
12 Moghal Educational Society 8-5-2/18 Moghal Complex, Kahidan Road,

Near Chandrannadata X Road, Bandlaguda, Hyderabad rep by Secretary.
13 Murthy Educational Society, H. No. 8-3-1055, Plot No. 139 Srinagar

Colony, Hyderabad rep by its Secretary.
14 Nova Educational Society, Plot No. 12, H. No. 16-11-22/1 Krishna Tulasi

Nagar, Musarambagh.
15 S.S. Educational Society 402, Sri Krishna Sai Apartments Yousufguda

Check Post, Hyderabad rep by Secretary

16 Sri Vigneshwara Foundation Plot No. 7 Surya Avenue Tirumalgherry,

Secunderabad-15 rep by its Secretary

17 St. Daniel Christan Minority Educatinal Society Plot No. C-102,

Ravindranagar Colony, Hubsiguda, Hyderabad, rep by its Secretary.
18 T.K.R. Educatinal Society H. No. 16-2-751/A/31/C, Tirumala Hills

Asmangadh, Malkpet, Hyderabad rep by its secretary.
19 Sarada Eductional Society D. No. 11-01-24 Sabitha Nursing Home

Mayuri Centre Khammam rep by Secretary.
20 Vasantha's Educational Society Flat No. 401, H. NO. 2-2-2, Vasavi

Heights, NCC Circle Vidyanagar, OU Road, Hyderabad 500 013 rep by

Secretary

.....RESPONDENTS

Counsel for the Appellant : MR.N.NAVEEN KUMAR

Counsel for the Respondent No.1 : MR.S.SRI RAM

Counsel for the Respondent No.2 : Ms.C.SINDHU KUMARI

Counsel for the Respondents No.3 & 4: GP FOR HIGHER EDUCATION

WRIT APPEAL NO : 630 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22/02/2005 in WP NO : 3179 OF 2005 on the file of the High Court.)

Between:

Nova Educational Society, Plot No.12, H.No.16-11-22/1, Krishna Tulsi Nagar, Musarambagh-500 036 rep., by its Secretary, M.Krishna Rao, s/o M.Venkata Narayana

..... APPELLANT

AND

1 Self Financing Rural Engineering College, Managements Association

Reg.No.114/2002, Reg.Office 2-1-124/A/2, Nallakunta, Hyderabad.
2 The All India Council for technical Education, Indira Gandhi Sports

Complex, I.P.Estate, New Delhi, rep., by its Member Secretary.
3 The State of Andhra Pradesh, rep., by its Principal Secretary, Higher

Education Department, Secretariat Buildings, Hyderabad.
4 The Commissioner of Technical Education, A.P.Hyderabad.
5 Annamacharya Educational Trust, 2-2-25/P/T/7/1, D.D.Colony, Bagh

Amberpet,Hyderabad.
6 Avanthi Educational Society rep., by its Secretary Mr.M.Srinivasa Rao,

S/o M.Venkata Narayana, H.No.8-2-293/82/F-IIA, Plot No.12, Film

Nagar, Jubilee Hills, Hyderabad.
7 Brilliant Bells Educational Society, Pent House, 601, Girisikara

Residency, Hyderabad-500 004, rep., by its Secretary.
8 Chandramma Educational Society, Sy.No.59, Jaya Nagar Colony,

Bowenpally, Secunderabad-500 011 rep., by its Secretary.
9 Fareeha Educational Society, 8-2-293/82A/1297, Jubilee Hills,
Hyderabad rep., by its Secretary.
10 K.M.R.Educational Society, Plot No.48, Sowjanya Colony, Bowenpally,

Secunderabad-500 011 rep., by its Secretary.
11 M.G.R.Educational Society, 173, Plassey Lane, Malla Reddy Gardens,

Bowenpally, Secunderabad-500 011, rep., by its Secretary.
12 Malla Reddy Educational Society, Bownepally Secunderabad-500 001,

rep., by its Secretary Mr.Ch.Mahender Reddy, s/o Ch.Malla Reddy,
13 Moghal Educational Society, 8-5-2/18, Moghal Complex, Kahidan Road,

Near Chandrannadata X Road, Bandlaguda, Hyderabad-500 005 rep., by

its Secretary.
14 Murthy Educational Society, H.No.8-3-1055, Plot No.139, Srinagar

Colony, Hyderabad-500 073 rep., by its Secretary.
15 S.S.Educational Society, 402, Sri Krishna Sai Apartments, Yousufguda

Check Post, Hyderabad rep., by its Secretary

16 Sri Vigneshwara Foundation, Plot No.7, Surya Avenue Tirumalgherry,

Secunderabad-15 rep., by its Secretary.
17 St.Daniel Christian Minority Educational Society Plot No.C-102,

Ravindranagar Colony, Hubsiguda, Hyderabad-500 007, rep., by its

Secretary.
18 T.K.R.Educational Society, H.No.16-2-751/A/31/C, Tirumala Hills,

Asmangadh, Malakpet, Hyderabad-500 036 rep., by its Secretary.
19 Sarada Educational Society, D.No.11-01-24, Sabitha Nursing Home,

Mayuri Centre, Khammam-507 001, rep., by its Secretary.
20 Vasantha's Educational Society, flat No.401, H.No.2-2-2, Vasavi Heights,

NCC Circle, Vidyanagar, O.U.Road, Hyderabad-500 013, rep., by its

Secretary.

.....RESPONDENTS

Counsel for the Appellant:MR.B.ADINARAYANA RAO

Counsel for the Respondent No.1 : MR.S.SRI RAM

Counsel for the Respondent No.2 : Ms.C.SINDHU KUMARI

Counsel for the Respondents No.3 & 4: GP FOR HIGHER EDUCATION

The Court made the following :

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION Nos.

3179, 4871, 5486, 5662, 5756 & 7151 of 2005

AND

WRIT APPEAL Nos.

425, 426, 427 & 630 of 2005

COMMON JUDGMENT : (Per Hon'ble Sri Bilal Nazki, ACJ)

There are six writ petitions and four writ appeals. The writ appeals

arise out of an order passed by the learned Single Judge in one of the writ petitions being writ petition No.3179 of 2005.

The bone of contention in all these cases is a Memo issued by the State Government being Memo No.10680/EC.2/2004, dated 14.12.2004. Some of the writ petitioners support the Memo, whereas in some other writ petitions, this Memo has been challenged. Controversy revolves around this Memo. Since all the writ petitions and writ appeals raise same questions of law and fact, they were heard together and are being disposed of together by this common judgment.

The impugned Memo communicated a decision of the Government to its functionaries i.e. Director of Technical Education, Secretary, A.P. State Counsel of Higher Education and the Registrars of the Universities that it had decided not to consider establishment of new Engineering colleges in the State during the Academic year 2005-06. This Memo has been challenged as unconstitutional, arbitrary and illegal in writ petitions No.7151 and 5662 of 2005. Writ petition No.3179 of 2005 challenges the letter of intent for establishment of Engineering colleges to respondents No.4 to 20 in that writ petition. Writ Petition No.4871 of 2005 has been filed in public interest and it also seeks a direction that the authorities concerned should not permit new Technical institutions to come up and it has challenged the action of respondents permitting respondents No.4 to 9 in that writ petition to open the new colleges. Writ petition No.5756 of 2005 also challenges the letter of intent issued by All India Council for Technical Education (hereinafter referred to as 'AICTE') in favour of respondents No.4 to 20 in that writ petition with regard to establishment of new colleges. In writ petition No.5486 of 2005 also, the letter of intent issued in favour of respondents No.4 to 20 for establishment of new colleges has been challenged. When the writ petition No.3179 of 2005 came up for admission before the learned Single Judge, he passed an order directing that letters of approval to the respondents No.4 to 20 consequent to grant of letters of intent be not issued. This order is challenged in writ appeals No.425, 426, 427

and 630 of 2005.

The nature of the cases which are before us and the particulars of which have been mentioned hereinabove, demand resolution of two issues—

> Firstly, whether Memo No.10680/EC.2/2004 is unconstitutional and arbitrary, and
>
> Secondly, whether the letters of intent issued by AICTE in favour of certain colleges are bad and can a direction be given to AICTE not to approve the establishment of those colleges.

We have heard learned Counsel for the parties in detail.

There are two sets of writ petitions now before us. We will take one each from two sets for the purposes of facts and pleadings and will deal with the set of writ petitions first, by which the letters of intent have been challenged. Writ petition No.3179 of 2005 is one of such writ petitions. This writ petition has been filed by an association which comprises of the colleges which are already in existence. It states in its affidavit that the objects of the association are to ensure establishment and growth of technical education in the State and rural Engineering colleges in particular. It also states that all the members of the association are Engineering colleges which have been established by them in pursuance to the policy of the State Government framed in G.O.Ms.No.501, dated 4.8.2000. Under the said policy, educational agencies were encouraged by the State to set up Engineering institutions in rural areas in furtherance of its Constitutional obligations under Article 41 of the Constitution. Earlier, the colleges were established only in urban areas, resulting in migration from villages to urban areas. The petitioners also referred to Section 3 of the All India Council for Technical Education Act, 1987 (hereinafter referred to as 'the Central Act') and regulations made under the Act, which lay down the procedure for establishment of new colleges. It is submitted that the State Government and AICTE change their policies from time to time. It is stated that respondents

No.4 to 20 made applications to the AICTE in terms of notification dated 04.11.2004 and it has now granted letters of intent by its communication dated 10.2.2005. It is further stated that most of the new colleges are sought to be located in Ranga Reddy District around Hyderabad city, notwithstanding the fact that in many of the city based colleges also there have been unfilled seats. It is further stated that establishment of colleges near the State capital would have the effect of making the Engineering education only urban based, which would defeat the Government's policy contained in G.O.Ms.No.501, dated 4.8.2000. The action of the 1st respondent in issuing letters of intent to respondents No.4 to 20 has been termed as arbitrary and illegal. It is also stated that it was in contravention of Regulation 6(1)(d). It is also stated that respondent No.1 has not conducted any enquiry under Section 10(1)(a) of the Central Act. It is also submitted that AICTE was required to take in to consideration the recommendations of the State Government under Regulation 6(1)(b). The AICTE had no material justification to over rule the opinion of the State Government in establishing further Engineering colleges in the State.

Counters have been filed. Respondent No.1, besides taking some pleas on merit, has taken some other objections which were also argued at the time of hearing. These objections are—(a) the petitioner had no locus standi and it could not challenge the letters of intent given to respondents No.4 to 20, and (b) that the writ petition could not be maintained even as public interest writ petition, because the petitioners have not come to the Court to take up a cause of poor and underprivileged who are unable to come to Court due to some disadvantage, but are pursuing their own cause, as they want to create a monopoly in the education in Engineering. It is submitted that AICTE was the only authority to finally decide all mattes connected to technical education on assistance from various local Governments and Universities. AICTE, in exercise of its powers under Section 23 of the Central Act, had framed regulations regarding the establishment of Engineering colleges and these regulations

were amended from time to time, keeping in view its experience in discharge of its functions over the years. The earlier regulations were found to have resulted in several difficulties in unending litigation. In order to overcome these difficulties, AICTE has framed new regulations with effect from 06.01.2005, superceding earlier regulations. It has also notified new approval process, through which consultation mechanism as provided under Section 10 of the Act has been strengthened and several mechanisms have been introduced to make decision making transparent, consistent and rational. Matters relating to 2005-06 have to be dealt with in accordance with the regulations framed by AICTE with effect from 06.01.2005. It is also submitted that regulations which have been referred to by the petitioner, relate to the year 2003-04 and had been superceded with fresh regulations dated 06.01.2005. It gave a history relating to consultation process with the State Government with regard to applications of respondents No.4 to 20 for establishment of new colleges. Counter states that during the year 2004-05, the State Government initially issued 'No Objection Certificate' (hereinafter referred to as 'N.O.C.') vide letter dated 14th December, 2003 to 16 societies including the 6 societies from preceding year. The Government also issued orders dated 16th, 18th and 28th August, 2004 respectively, recommending several colleges for consideration of establishment of new colleges during 2004-05. Consequently, the State Government issued 5 N.O.Cs. after the cut off date prescribed by the AICTE The AICTE, at that stage, had requested the State Government vide letter dated 30th August, 2004, to clarify its stand on the N.O.Cs. issued after the cut off date. In response to AICTE's letter, the Government issued a letter dated 07.09.2004, stating that the N.O.Cs. issued after the cut off date with respect to 5 institutions may be considered during 2005-06 if the management made fresh application against AICTE notification. Later on, Government issued several orders on 12th October, 2004 stating that since counseling for admission to Engineering courses was over by 15th July, 2004 and the time for issuing of N.O.C. had elapsed, those cases would be

considered during 2005-06. It is further stated in the counter that in view of the frequent changes in the stand of the State of Andhra Pradesh, the AICTE had addressed them highlighting that the lack of consistency on the part of the State Government in taking a decision on issue of N.O.C. necessitated a review of the earlier regulations, particularly in the light of the several Court judgments. It is further submitted that powers in the matter of establishment of a professional college rests with AICTE under the Central legislation. It is further stated that the objective of AICTE is to involve the State Government in the process of establishment of Engineering colleges in the private sector. The State Government of Andhra Pradesh was shifting its stand in the matter of issuance of N.O.Cs., which were required to be issued under the earlier regulations. The change in policies of the State Government caused several problems for the AICTE and also led to litigation in the Courts. During the year 2004-05, matter of letter of intent pertaining to the State of Andhra Pradesh kept hanging much behind the cut of date stipulated in the National Calendar. To avoid any problem for the year 2005-06, the State Government was specifically requested to examine every application with due deligence and care after doing a micro analysis in terms of all relevant factors, so that the decisions could be taken by AICTE in a consistent and fair manner. The State, however, took a general decision not to grant any N.O.C. for new Engineering colleges and it was found to be unjustified and untenable by the AICTE The AICTE's inability to endorse this point of view of the State Government arose from the fact that technical education facilities need to be further expanded in the country and have not yet reached a stage where a policy decision could be taken not to permit any new Engineering institutions. It is stated that in a country of more than one billion population, only three lakh students are taking admission every year in Engineering colleges, out of which, less than fifty percent could successfully graduate. The availability of graduate engineers per year, therefore, is less than 2 per 10,000 population. A comparative statement of availability of scientists and technicians in other countries has been given in the counter affidavit, which shows that

India is far behind many other countries. It is further stated that for the academic year 2003-04, as per the regulations then in force, the State Government had to give N.O.C. within the cut off date. It did not do so and issued N.O.Cs. after the cut off dates and the State Government corresponded with the AICTE to accept those N.O.Cs. and consider the applications for establishment of Engineering colleges for the academic year 2003-04. Then the AICTE stated that these N.O.Cs. would be relevant for the year 2004-05 as well.

Coming to the year 2004-05, the State Government had initially communicated its policy through Memo No.9872/EC.II/ 03-01, dated 13th October, 2003. This Memo stated that the State Government would allow establishment of new Engineering colleges in uncovered Revenue divisions and in respect of such societies who had got land registered, obtained building permission and started construction before 16.08.2002. For this academic year the last date for submission of N.O.C. was 15th December, 2003. Just two days before the cut off date for submission of N.O.Cs., the State Government modified its policy by a Memo dated 13th December, 2003 in respect of Pharmacy colleges. In respect of Engineering colleges, for the academic year 2004-05, the State Government did not issue any N.O.Cs. within the cut off date. However, on 16.8.2004, it wrote to AICTE, but these letters were sent after the cut off date for submission of N.O.Cs. Letters were also not in the form of grant of N.O.Cs. The AICTE did not accept the contentions raised by the State Government in imposing total ban on establishment of new Engineering colleges in terms of the impugned Memo. It submits that out of 149 applications received from Andhra Pradesh, 28 were issued letters of intent. They were scrutinized and there was 100% compliance of norms. Before issuance of letters of intent, AICTE had invited representatives of the State Government for the Hearing Committee to ascertain the viability of each application and various other factors including the demand and requirement of technical

educational facilities in the respective States. The AICTE addressed letters dated 3rd January, 2005 and 16th February, 2005 to involve the State Government in the hearing process and also to elicit the reasons for change in its stand in the matter of establishment of Engineering colleges for the academic year 2005-06. It is further submitted that as required under Section 6(1)(d) of the regulations, the AICTE had consulted the Government of A.P., considered its recommendations and consciously decided to overrule them and took a decision on the basis of available material, which include the recommendations of the State Government.

In the second set of writ petitions, challenge was made to the State Government's Policy enunciated in Memo No.10680/EC.2/ 2004, dated 14.12.2004. Therefore both sets of writ petitions raise same questions of law and fact.

The State Government has not challenged the letters of intent issued by the AICTE, but has supported its Memo, in the counter affidavit filed to writ petition No.5662 of 2005. The only submission made in the counter affidavit is that the State Government took a decision on consideration of the fact that large number of seats remained vacant and therefore the State Government thought that it was not necessary to establish new colleges. It is submitted that there were 238 Engineering colleges in the State with a total intake capacity of 82,225 seats. For the Academic Year 2004-05, 19,481 seats remained unfilled. The Government further maintained that for the last five years, demand for Engineering courses is gradually declining. During the year 2001, 1,45,998 application forms were sold, but in 2005, only 1,18,719 application forms were sold. In the year 2001, 1,17,152 candidates were qualified the E.A.M.C.E.T. i.e. entrance examination, but by the year 2004, the number of candidates who qualified the entrance examination was reduced to 89,403. The number of seats available to the number of candidates seeking admission was 1: 1.7 and therefore it was clear that there was no need for establishment of new colleges. It also gave a break up region vise and stated that out of 238 Engineering colleges in the

State, Andhra region had 64 colleges with intake capacity of 24,050. In Osmania University region, there are 138 colleges with intake capacity of 45,590 and in S.V.University region, there are 36 colleges with intake capacity of 12,585 candidates. The State Government maintained that there are adequate number of Engineering colleges and at least 3 Engineering colleges in each District. There are some Districts, where there are 8 Engineering colleges such as East Godavari, Guntur, Krishna, Prakasam, Visakhapatnam, West Godavari, Hyderabad, Nalgonda, Medak, Ranga Reddy, Warangal, Chittoor and Nellore Districts.

We intend to refer to the submissions made by the Counsels in writ petitions No.5662 and 7151 of 2005 in the first instance, because that challenges the Government's policy. Mr.Niranjan Reddy submitted that the impugned Memo is illegal, arbitrary and unconstitutional on various grounds and cannot be sustained. At first instance, he stated that there cannot be a policy of not having any new Engineering college. He submits that it amounts to a blanket ban with regard to establishment of new Engineering colleges, although to receive education is a fundamental right. He submits that each request for establishment of an Engineering college at a particular place, has to be examined individually. There cannot be any ban, which is absolute in terms, to have any new Engineering college. He submits that such issues are not *res integra* and have already been decided by the Supreme Court. He is supported in his arguments by senior advocate appearing for AICTE and also supported by the counsel appearing for the respondents in writ petition No.3179 of 2005. Mr. Niranjan Reddy in this connection, relies on a judgment of the Supreme Court reported in *Thirumuruga Kirupananda Variyar Thavathiru Sundara Swamigal Medical Educational & Charitable Trust v. State of Tamil Nadu & others*. This was a case where the State Government pleaded that it had taken a policy decision not to have any medical colleges in the State. The Supreme Court found that in view of the provisions of Indian Medical Council Act, 1993, the State Government was not within its powers to take such a policy

decision, as the matters relating to the policy of Medical education were available only to the Central Government. In para 34, the Supreme Court held;

> *"34. It is no doubt true that in the scheme that has been prescribed under the regulations relating to establishment of new medical colleges one of the conditions for the qualifying criteria laid down is that essentiality certificate regarding desirability and feasibility of having the proposed college at the proposed location should be obtained from the State Government. The said condition about obtaining an essentiality certificate from the State Government regarding desirability and feasibility of having the proposed college at the proposed location cannot be equated with obtaining prior permission of the State Government for establishing a new medical college as required under the proviso to Section 5(5) of the Medical University Act. For the purpose of granting the essentiality certificate as required under the qualifying criteria prescribed under the scheme, the State Government is only required to consider the desirability and feasibility of having the proposed medical college at the proposed location. The essentiality certificate cannot be withheld by the State Government on any policy consideration because the policy in the matter of establishment of a new medical college now rests with the Central Government alone."*

He also relied on a judgment reported in *Shivaji University v. Bharti Vidyapeeth & others*. The case relate to a controversy regarding establishment of a new Law college. The State Government passed a resolution with respect to grant of permission for new Law colleges on permanent un aided basis in the Districts of the State, where not a single Law college existed. Since the matter was pending in Court, the resolution stated that till such time the appeal was disposed of, if applications and proposals were received for establishment of Law colleges in the Districts where not a single Law college existed, they would be considered. Then, when the applicant, who wanted to establish a college, approached the State Government, such permission was declined on the ground that a Law college already existed at Sangli, where the applicant wanted to establish a new college. The applicant had also obtained approval from the Bar

Council of India to establish a college. The State Government pleaded that it had framed a policy through resolution, that where there was a single Law college in a District of the State, no other Law college therein would be permitted. Though the Supreme Court found that this resolution was only operative till the case referred to in the resolution was settled in Court, but it had also noted, "*it is difficult to hold that the government resolution dated 13-6-1995 lays down, as a matter of policy, that where there is a single law college in a District of the State, no other law college therein will be permitted" ..... "In the second place, and assuming that that is the policy, this is clearly arbitrary and unreasonable. Account has not to be taken of whether or not a law college exists in a district. What is relevant and what should be taken into consideration is the population which the existing law college serves and whether, therefore, there is need for an additional college."*

Mr.Niranjan Reddy has also referred to another judgment reported in *Jaya Gokul Educational Trust v. Commissioner & Secretary to Government Higher Education Department, Thiruvananthapuram, Kerala State & another.* This judgment, however, will be referred by us while referring to a later judgment of the Supreme Court reported i n *Government of A.P. & another v. J.B.Educational Society & another*.

The decisions referred to above make it clear that the State Government cannot have a blanket ban on establishment of new colleges. The learned Counsel for the petitioners submits that these decisions show that the State Government cannot impose a blanket ban on establishment of new colleges and it cannot frame any such policy, because, that policy would be in contravention of the provisions of the Central Act namely the AICTE Act. He submits that the Central Act was promulgated to provide for establishment of an All India Council for Technical Education with a view to the proper planning and co-ordinated development of the technical education system throughout the country, the promotion of qualitative improvements of such education in relation to planned quantitative

growth and the regulation and proper maintenance of norms and standards in the technical education system and for matters connected therewith. In view of the objects of the Act, it is abundantly clear that the policy relating to planning and coordinated development of the technical education system throughout the country can only be made by the Central Government in terms of the Central Act and any attempt made by the State Government in this connection would be contrary to the provisions of the Central Act. He submits that under Section 3 of the Central Act, a Council is established and functions of the Council are laid down under Section 10. Section 10(k) lays down that it is the duty of the Council to take all such steps as it may think fit for ensuring coordinated and integrated development of technical education and maintenance of standards and for the purpose of performing such functions, the Council may grant approval for starting new technical institutions and for introduction of new courses or programs in consultation with the agencies concerned. It is submitted that if the State Government imposes a blanket ban, then the power granted to the Council under the Central Act to grant approval for starting new technical institutions, will become redundant and the State Government cannot have a veto.

The learned Counsel for the respondents, on the other hand, who represented the petitioners in some of the writ petitions, challenging the letters of intent, submit that the regulations made under Central Act make State Government a party to decision making with respect to establishment of new colleges, and as such, the impugned Memo cannot be termed illegal. We will deal with the regulations framed by the AICTE at a later stage, but we are not convinced that the Central Act permits the State Government to have a blanket ban on establishment of new colleges. Mr.Sri Ram, counsel for the petitioners submits that the State Government has its own powers under the A.P. Education Act, 1982 (hereinafter referred to as 'the State Act') and in this connection he refers to Section 20 of the said

Act. We will deal with that argument also when we deal with the submission regarding applicability of Section 10(3) of the Central Act vis-à-vis Section 20 of the State Act. The provisions of the Central Act are clear that the final decision with regard to establishment of a new technical institution has to be taken by the AICTE and there cannot be any veto with the State Government, prescribing a total ban on establishment of new colleges.

Mr. Niranjan Reddy has also submitted that the Memo was violative of petitioners' fundamental rights under Article 19(1)(g) of the Constitution. He also challenged the Memo on the ground that it was violative of Article 30 of the Constitution, because both the writ petitions i.e. writ petitions No.5662 and 7151 of 2005 have been filed by the Society which wanted to establish minority institutions. He has also submitted that this was a case of promissory estoppel as the letters of intent had been issued and huge investments have been made in pursuance to the letters of intent, therefore, permission could not be refused to them and lastly, he has submitted that impugned Memo was not traceable to Section 20 of the State Act and as a matter of fact, it was in violation to Section 20 of the State Act. We propose to deal with the last argument first, as to applicability of Section 20 of the State Act vis-à-vis Section 10 of the Central Act.

The learned Counsel Mr. Sri Ram appearing for the respondents in writ petitions No.5662 and 7151 of 2005 and appearing for petitioners in all other writ petitions submits that those matters have been concluded by the judgment of the Supreme Court reported in *Government of A.P. & another v. J.B.Educational Society & another* (4 supra). This case needs a discussion in detail. A Division Bench of Andhra Pradesh High Court in Writ appeals No.1571 of 1997, 84 of 1998 and 85 of 1998, partly confirmed the judgment of the learned Single Judge, holding that Section 23(a)(i) of the State Act was void and inoperative and the State Government had no legislative competence to pass such a legislation as the field was already occupied by the enactment made by the Parliament by the Central Act. The High Court further held that with regard to

establishment of new technical institutions, the provisions of the State Act would have to give way to the provisions of the Central Act. Appeal was taken to the Supreme Court. Before appreciating the law laid down by the Supreme Court, it will be necessary to have a look at certain provisions of the State Act.

A.P. Education Act, 1982 was enacted to consolidate and amend the laws relating to the educational system in the State of Andhra Pradesh for reforming, reorganising and developing the educational system. Under Section 19 of the Act, the educational institutions have been classified into State institutions, local authority institutions and private institutions. Section 20 deals with permission for establishment of educational institutions. This section is reproduced as under;

"20. Permission for establishment of educational

institutions:--

1. *The competent authority shall, from time to time, conduct a survey as to identify the educational needs of the locality under its jurisdiction, and notify in the prescribed manner through the local newspapers calling for applications from the educational agencies desirous of establishing educational institutions.*

2. *In pursuance of the notification under sub-section (1), any educational agency including local authority or registered body of persons intending to—*

    a. *establish an institution imparting education;*

    b. *open higher classes in an institution imparting primary education; or*

    c. *upgrade any such institution into a high school;*

    d. *open new courses (certificate, diploma, degree, post-graduate degree courses, etc.,)*

may make an application, within such period, in such manner and to such authority as may be notified for the grant of

permission therefore.

3. *Any educational agency applying for permission under sub-section (2) shall,--*

e. *before the permission is granted, satisfy the authority concerned, --*

(I) that there is need for providing educational facilities to the people in the locality;

(ii) that there is adequate financial provision for continued and efficient maintenance of the institution as prescribed by the competent authority;

(iii) that the institution is proposed to be located in sanitary and healthy surroundings;

(b) enclose to the application:--

i. *title deeds relating to the site for building,*

playground and garden proposed to be provided;

ii. *plans approved by the local authority concerned which shall conform to the rules prescribed therefor; and*

iii. *documents evidencing availability of the finances needed for constructing the proposed buildings; and*

(c) within the period specified by the authority concerned in the order granting permission:--

i. *appoint teaching staff qualified according to the rules made by the Government in this behalf;*

ii. *satisfy the other requirements laid down by this Act and the rules and orders made thereunder failing which it shall be competent for the said authority to cancel the permission.*

(4) On and from the commencement of the Andhra Pradesh Education (Amendment) Act, 1987, no educational institution shall be established except in accordance with the provisions of this Act and any person who contravenes the provisions of this section or who after the permission granted to him under this section having been cancelled continues to run such institution

shall be punished with simple imprisonment which shall not be less than six months but which may extent to three years and with fine which shall not be less than three thousand rupees but which may extent to fifty thousand rupees:

Provided further that the court convicting a person under this section shall also order the closure of the institution with respect to which the offence is committed."

If we go by the scheme of this section, it shows that the competent authority will have to, from time to time, conduct surveys to identify the educational needs of the locality under its jurisdiction and notify in the prescribed manner through local newspapers, calling for applications from the educational agencies desiring for establishing educational institutions and once such a notification was issued, the educational agencies could apply for establishment of such an institution.

It was contended before the High Court in the earlier writ petitions that since the field was occupied by Section 10 of the Central Act to which a reference has been made by us hereinabove, the permission of the State Government for establishment of technical institution was not necessary. However, the Supreme Court, while analyzing the two provisions i.e. Section 10 of the Central Act and Section 20 of the State Act in the judgment cited above (4 supra), was of the view that there was no conflict between the two provisions. In para 13 of the judgment it held;

"13. It is in this background that the provisions contained in the two legislative enactments have to be scrutinized. The provisions of the AICTE Act are intended to improve the technical education and the various authorities under the Act have been given exclusive responsibility to coordinate and determine the standards of higher education. It is a general power given to evaluate, harmonise and secure proper relationship to any project of national importance. Such a coordinate action in higher education with proper standard is of paramount importance to national progress. Section 20 of

the AP Act does not in any way encroach upon the powers of the authorities under the Central Act. Section 20 says that the competent authority shall, from time to time, conduct a survey to identify the educational needs of the locality under its jurisdiction notified through the local newspapers calling for applications from the educational agencies. Section 20(3)(a)(i) says that before permission is granted, the authority concerned must be satisfied that there is need for providing educational facilities to the people in the locality. The State authorities alone can decide about the educational facilities and needs of the locality. If there are more colleges in a particular area, the State would not be justified in granting permission to one more college in that locality. Entry 25 of the Concurrent List gives power to the State Legislature to make laws regarding education, including technical education. Of course, this is subject to the provisions of Entry 63, 64, 65 and 66 of List I. Entry 66 of List I to which the legislative source is traced for the AICTE Act deals with the general power of the Parliament for coordination, determination of standards in institutions for higher education or research and scientific and technical educational institutions and Entry 65 deals with the union agencies and institutions for professional, vocational and technical training, including the training of police officers, etc. The State has certainly the legislative competence to pass the legislation in respect of education including technical education and Section 20 of the Act is intended for general welfare of the citizens of the State and also in discharge of the constitutional duty enumerated under Article 41 of the Constitution."

Since the matter relating to inconsistency of the provision of the State Act to the Central Act in the concurrent list has already been considered and decided by the Supreme Court, it would not be necessary for us to deal with the subject any further. But Mr. Niranjan Reddy submits that this judgment of Supreme Court has not taken note of two earlier judgments i.e. one reported in *Thirumuruga Kirupananda Variyar Thavathiru Sundara Swamigal Medical Educational & Charitable Trust v. State of Tamil Nadu & others* (1st supra) and another in *Shivaji University v. Bharti*

Vidyapeeth & others (2nd supra). He also relied on a judgment reported in *Jaya Gokul Educational Trust v. Commissioner & Secretary to Government Higher Education Department, Thiruvananthapuram, Kerala State & another* (3rd supra), to which a reference has been made by us earlier. The facts of this case need to be mentioned. A Society wanted to establish a self-financing Engineering college and submitted an application during 1994-95 to the University of Kerala and also to the All India Council for Technical Education. The University's inspection teem recommended grant of affiliation. The AICTE granted provisional approval for the establishment of Engineering college. The appellant, after getting conditional permission from AICTE, applied to the State Government for grant of permission, as it was under an impression that it needed a permission from State Government as well. In the meantime, the University forwarded a list of colleges for affiliation during the Academic year 1995-96. The appellant's college was one of the colleges among the affiliated colleges for the said period. The Society sent a reminder to the Government on 26.8.1995 for permission for starting the college for the academic year 1995-96. The Government refused permission by informing the appellant by a letter dated 16.8.1996 as follows; *"In inviting your attention to the reference cited, I am to inform you that Government regret their inability to comply with your request."* Thereafter, the litigation started and writ petition was filed for quashing the said order and for a direction to Government to grant sanction for establishment of an Engineering college. A learned Single Judge of Kerala High Court allowed the application. Government filed an appeal before the High Court. A Division Bench of the High Court allowed the appeal, set aside the order of learned Single Judge and dismissed the writ petition. However, the Division Bench granted liberty to the Society to make a fresh application to the Government for according sanction for setting up of an Engineering college. Thereafter, the matter landed in Supreme Court. One of the contentions raised

on behalf of the State Government before the Supreme Court was that the State Government, as a matter of policy, has decided not to grant approval to self-financing Engineering colleges to be established. The Supreme Court, after hearing the parties, framed certain questions to be answered by it, as under:

> *"(1) Whether in view of the judgment of this Court in State of T.N. v. Adhiyaman Educational & Research Institute (1995 (4) SCC 104) the provisions of the AICTE Act, 1987 occupied the field and it was not necessary to obtain the further approval of the Government or other authority ? Whether any statute in the State of Kerala if it required such approval, would be void ?*
>
> *(2) Whether the orders of rejection passed by the State Government were valid on merits and whether the University should have granted further orders to continue the affiliation solely on the basis of AICTE permission ?"*

We are not concerned with the second issue. On the first issue, the Supreme Court, after considering provisions of Central Act particularly Section 10 of the Act and the regulations framed under the Act, came to the conclusion in para 23,

> *"23. Thus we hold, in the present case that there was no statutory requirement for obtaining the approval of the State Government and even if there was one, it would have been repugnant to the AICTE Act. The University Statute 9(7) merely required that the "views" of the State Government be obtained before granting affiliation and this did not amount to obtaining "approval". If the University statute required "approval", it would have been repugnant to the AICTE Act. Point 1 is decided accordingly."*

Coming to the judgment reported in *Thirumuruga Kirupananda Variyar Thavathiru Sundara Swamigal Medical Educational & Charitable Trust v. State of Tamil Nadu & others* (1st supra), which we have already referred hereinabove, but it needs further elaboration. This was a case where the question of repugnancy of the State legislation to the Indian Medical Council Act was considered, as the matter related to establishment of a new medical college. Section 10-A of the Indian Medical Council Act lays down,

"Notwithstanding anything contained in this Act or any other law for the time being in force:--

f. *no person shall establish a medical college; or*

g. *no medical college shall—*

i. *open a new or higher course of study or training (including a postgraduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognized medical qualification;*

or

(ii) increase its admission capacity in any course of study or training (including a postgraduate course of study or training), except with the previous permission of the Central Government obtained in accordance with the provisions of this section."

There was a State Act in the State of Tamil Nadu, known as 'Medical University Act'. Sub-section (5) of Section 5 of the said Act lays down, *"no college shall be affiliated to the University unless the permission of the Government to establish such college has been obtained and the terms and conditions, if any, of such permission have been complied with."* So, the question before the Supreme Court was whether sub-section (5) of Section (5) of the Medical University Act, which was a State Act, was repugnant to Section 10-A of the Indian Medical Council Act, which was the Central Act. In para 33 of the judgment, the Supreme Court held;

"33. After the enactment of Section 10-A by the Central Government, the Medical Council, by notification dated 20-9-1993, has made the "Establishment of New Medical Colleges, Opening of Higher Courses of Study and Increase of Admission Capacity in Medical Colleges Regulations, 1993 (hereinafter referred to as "the Regulations") whereby a scheme for application for permission of the Central Government to establish a new medical college has been made. In the said scheme qualifying criteria for applying for permission to establish a new medical

college have been laid down. One of the conditions that is required to be fulfilled by the eligible organizations is that "essentiality certificate regarding the desirability and feasibility of having the proposed medical college at the proposed location has been obtained and that the adequate clinical material is available as per Medical Council of India requirements has been obtained by the applicant from the respective State Government or the Union Territory Administration". Shri Sanghi has urged that even if the proviso to Section 5(5) of the Medical University Act is held to be inapplicable in the matter of establishing a new medical college and the requirement of obtaining the prior permission of the State Government for establishment of a medical college cannot be insisted upon under the said proviso, a similar requirement has now been imposed by virtue of the qualifying criteria laid down in the scheme as framed by the Regulations and that this was also insisted upon by the Central Government in its Letter of Intent dated 12-12-1995. The submission of Shri Sanghi is that the State of Tamil Nadu has considered the matter in the light of this requirement and has refused the necessary permission."

In para 34 it also added;

"34. It is no doubt true that in the scheme that has been prescribed under the Regulations relating to establishment of new medical colleges one of the conditions for the qualifying criteria laid down is that essentiality certificate regarding desirability and feasibility of having the proposed college at the proposed location should be obtained from the State Government. The said condition about obtaining an essentiality certificate from the State Government regarding desirability and feasibility of having the proposed college at the proposed location cannot be equated with obtaining prior permission of the State Government for establishing a new medical college as required under the proviso to Section 5(5) of the Medical University Act. For the purpose of granting the essentiality certificate as required under the qualifying criteria prescribed under the scheme, the State Government is only required to consider the desirability and feasibility of having the proposed medical college at the proposed location. The essentiality certificate cannot be withheld by the State Government on any policy consideration because the policy in the matter of establishment of a new medical college now rests with the Central Government alone."

All the three judgments, which we have referred above, are by two-Judge Benches of the Supreme Court. While reading of the three judgments together, there is no room left for doubt that the law on the subject is that the last word for establishing a technical institution lies with the AICTE. In para 21 of the judgment reported in *Government of A.P. & another v. J.B.Educational Society & another* (4th supra), the Supreme Court held;

> *"21. The educational needs of the locality are to be ascertained and determined by the State. Having regard to the regulations framed under the AICTE Act, the representatives of the State have to be included in the ultimate decision making process and having regard to the provisions of the Act, the Writ Petitioners would not in any way be prejudiced by such provisions in the A.P.Act. Moreover, the decision, if any, taken by the State authorities under Section 20(3)(a)(i) would be subject to judicial review and we do not think that the State could make any irrational decision about granting permission. Hence, we hold that Section 20(3)(a)(i) is not in any way repugnant to Section 10 of AICTE Act and it is constitutionally valid."*

This judgment also referred to the case of *T.M.A. Pai Foundation Vs. State of Karnataka [(2002) 8 SCC 481]* and also to *Jaya Gokul Educational Trust Vs. Commissioner-cum-Secretary, Higher Education & others [(2000) 5 SCC 231]* (3rd supra).

Therefore in the light of these three judgments, the law may be summarized as that the educational needs of a locality are to be ascertained and determined by the State having regard to the regulations framed under the Central Act. The representatives of the State have to be included in the decision making process and the final decision rests with the AICTE. It is the prerogative of AICTE to approve or not to approve establishment of a new college, but it is bound to consider the view of the State Government. There is no dispute between the parties with regard to the applicability of the

regulations framed on 06.01.2005. Although a feeble attempt was made by the Special G.P. appearing for the Government that they were not sure as to which of the regulations would apply for the present case, but it is a fact that letters of intent were issued after the regulations of 06.01.2005 came into force. Regulation 6 lays down the procedure for processing of the applications for grant of approval for establishment of new technical institutions. Regulation 6(1)(b) lays down that AICTE shall seek recommendations from the concerned State Government on the viability of the applications received for starting new technical institutions. Regulation 6(1)(c) says that the State Government, while forwarding the recommendations on the viability of the applications, shall provide reasons and justification to substantiate their stand and do so by the date stipulated by the Council from time to time. Regulation 6(1)(d) lays down that the recommendations of the concerned State Government shall be taken into consideration, among various other relevant factors, including the demand and requirement of the technical educational facilities in respective States, before issuing a letter of intent for establishment of new technical institutions.

On bare perusal of regulations (b), (c) and (d), it is imperative that the State Government has to apply its mind to each of the applications and cannot decline to consider the applications and frame its opinion on the ground that it has framed a policy of not having any other Engineering college in the State, which is a prerogative of the AICTE alone.

Mr.Sri Ram, while arguing in favour of the Government Memo and challenging the letters of intent, submitted that Section 21 of the State Act was not repugnant to Section 10 of the Central Act. He relied on the judgment reported in the case of *Thirumuruga Kirupananda Variyar Thavathiru Sundara Swamigal Medical Educational & Charitable Trust v. State of Tamil Nadu & others* (1st supra). We have already discussed and are of the opinion that in the light of this judgment, it will not be possible for us to go into question of repugnancy. In this connection, we agree with Mr.Sri Ram. He also

contends that the State Government had a positive role to play in the whole process, as has been held in *Government of A.P. Vs. Medwin Educational Society* and *Govt. of A.P. & another Vs. J. B. Educational Society & another .* We have also dealt with this contention and held that the State Government is bound to give its opinion in each case and the policy of banning establishment of new colleges was not within the power of the State Government. He also contended that the action of AICTE in overruling the recommendations of the State was ultra vires to Regulation 6(1)(d), which we have already referred hereinabove. It merely says that the recommendations of the State Government shall be taken into consideration. The State Government, in the present case, has already given N.O.Cs. at various points of time with respect to various colleges before issuing the impugned Memo banning establishment of new colleges. It has also come in the pleadings that a State team was invited to Delhi, it deliberated for two days with the Board and the Board took decision after knowing their views.

We are not dealing with arguments made in support of the contention that there was violation of Article 19 or 30, as we have not dealt with those arguments as made by Mr.Niranjan Reddy. He also contended that the policy of the State Government could not be subject matter of Judicial review and in this connection, various judgments have been referred to. It is true that Courts are slow in interfering with policy matters of the Government, but we have found that the State Government was not authorized to make any policy decisions with regard to establishment of new Engineering colleges, as it was sole prerogative of the AICTE under the Central Act. In terms of Section 20 of the State Act and in terms of the regulations framed by AICTE, the State was entitled to give its views to AICTE with respect to location and desirability of opening a college in a particular locality. Since the Government was not at all empowered to frame a policy of the nature that there won't be any more Engineering colleges in the State, therefore, this Court would not be interfering in the policy making decisions of the State. Therefore, the reference to

the judgments made by the learned Council orally as well as in his written arguments, is not necessary. He has also stated that this was not a case of promissory estoppel. We have not dealt with the argument of promissory estoppel as well.

The contention of the Government that there were number of seats vacant therefore, there was no need to have more colleges. The AICTE in its counter affidavit, has stated that some of the reasons for vacant seats in the Engineering colleges could be;

"(1) Lack of sufficient infrastructure and other facilities in such colleges,

(2) lack of adequate and competent faculty,

(3) lack of quality teaching in such institutions,

(4) Failure to implement the pay scales as fixed by the AICTE, UGC, and of State Governments,

(5) Lack of permanent faculty and frequent changes in faculty.

6. *Inconvenient location and failure to provide adequate transport facilities,*

7. *Fee structure,*

8. *Delayed/Deferred admissions,*

9. *Frequent change of location of the college,*

(10) Location of the college in temporary accommodation and failure to shift to permanent accommodation, even in spite of directives in this regard from AICTE, and

11. *Involvement of certain college Managements in irregularities, malpractices, and fraudulent activities either in obtaining approvals, or in the administration of the college or in the course of conduct of examinations."*

Mr.Niranjan Reddy also placed on record some date, which according to him, is not conclusive, but only illustrative to suggest that the vacancies are more because certain streams of Engineering are not preferred by various candidates. We are convinced that it is not for this Court to decide as to what are the reasons for the seats being vacant in various colleges in various disciplines and it is a

matter best left to the AICTE, which is empowered to take decisions on such matters and since we have held that the State Government is not empowered to impose a blanket ban on establishment of new Engineering colleges, further enquiry in this regard would be futile.

There are contentions with regard to monopoly being created by writ petitioners in writ petitions No.3179 and 5756 and also that the petitioners in these petitions have no locus standi to file the writ petitions. We do not think it as necessary for us to go into submission in this regard. The said Counsel also supported the Memo on some grounds on which it was supported by Mr. Sri Ram.

The arguments made at Bar with regard to the applicability of Article 19 and Article 30 have not been addressed by us. Similarly, the arguments regarding creation of monopoly by writ petitioners in writ petitions No.3179 and 5756 of 2005 and arguments relating to their locus standi have not been addressed by us. In conclusion, we hold that;

a. Memo issued by the Government on 14.12.2004 is illegal, as it could not, as a matter of policy, ban establishment of new colleges, and

b. that the letters of intent issued by the AICTE after consulting the State Government cannot be faulted and are upheld.

In view of these conclusions, we allow writ petitions No.5662 and 7151 of 2005 and dismiss other writ petitions being W.P.Nos. 3179, 4871, 5756 and 5486 of 2005.

The writ appeals are against the interim orders passed in WP No. 3179 of 2005. For the reason that we have already dismissed the said writ petition, the writ appeals are also dismissed.

No order as to costs.

Dt. 28.6.2005 _____ BNJ,ACJ

ajr

_____ GCJ

To

1 The Member Secretary, All India Council for Technical Education,

Indira Gandhi Sports Complex, I.P. Estate, New Delhi.
2 The Principal Secretary, Higher Education Department, State of

Andhra Pradesh, Secretariat Buildings, Hyderabad.
3 The Commissioner of Technical Education, Andhra Pradesh, Hyderabad.

4 The Secretary, A.P. State Council for Higher Education, Hyderabad.
5 The Secretary, Chandramma Educational Society, Sy.No. 59, Jaya Nagar

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6 The Secretary, K M R Educational Society, Plot No. 48, Sowjanya Colony,

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7 The Secretary, M G R Educational Society, 173, Plassey Lane, Mallareddy

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13 The Secretary, Fareeha Educational Society, 8-2-293/82A/1297, Jubilee

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14 The Secretary, Malla Reddy Educational Society, Bownpally,

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23 The Secretary, Malla Reddy Educational Society, Bownpally

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24 1 CC to MR.SRI RAM

25 1 CC to MR.ADINARAYANA RAO

26 Chief Judge, CCC, Hyderabad